

110TH CONGRESS
1ST SESSION

H. R. 3281

To promote competition, to preserve the ability of local governments to provide broadband capability and services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2007

Mr. BOUCHER (for himself and Mr. UPTON) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To promote competition, to preserve the ability of local governments to provide broadband capability and services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Broadband
5 Act of 2007”.

6 **SEC. 2. LOCAL GOVERNMENT PROVISION OF ADVANCED**
7 **COMMUNICATIONS CAPABILITY AND SERV-**
8 **ICES.**

9 No State or local government statute, regulation, or
10 other State or local government legal requirement may

1 prohibit, or have the effect of prohibiting, any public pro-
2 vider from providing advanced communications capability
3 or services to any person or to any public or private entity.

4 **SEC. 3. SAFEGUARDS.**

5 (a) COMPETITION NEUTRALITY.—A public provider
6 shall not grant any regulatory preference to itself or to
7 any provider of advanced communications capability or
8 service that it owns or with which it is affiliated. Such
9 public provider shall apply its ordinances, rules, and poli-
10 cies, including those relating to the use of public rights-
11 of-way, permitting, performance bonding, procurement,
12 and reporting, without discrimination in favor of any such
13 provider as compared to other providers of such services.

14 (b) APPLICATION OF GENERAL LAWS.—Except as
15 provided in section 2 and subsection (a) of this section,
16 nothing in this Act affects any obligation or benefit that
17 a public provider has under any other Federal or State
18 law or regulation.

19 **SEC. 4. PUBLIC INPUT.**

20 (a) NOTICE AND OPPORTUNITY TO BE HEARD.—Be-
21 fore a public provider may provide advanced communica-
22 tions capability or services to the public, either directly
23 or through a public-private partnership, such public pro-
24 vider shall—

25 (1) publish notice of its intention to do so;

1 (2) generally describe the capability or services
2 to be provided and the proposed coverage area for
3 such capability or services;

4 (3) identify any special capabilities or services
5 to be provided in low-income areas or other demo-
6 graphically or geographically defined areas; and

7 (4) provide local citizens and private-sector en-
8 tities with an opportunity to be heard on the costs
9 and benefits of the project and potential alternatives
10 to it.

11 (b) APPLICATION TO EXISTING PROJECTS AND
12 PENDING PROPOSALS.—Subsection (a) does not apply
13 to—

14 (1) any contract or other arrangement under
15 which a public provider is providing advanced com-
16 munications capability or services to the public as of
17 the date of enactment of this Act; and

18 (2) any public provider proposal to provide ad-
19 vanced communications capability or services to the
20 public that, as of the date of enactment—

21 (A) is in the request-for-proposals process;

22 (B) is in the process of being built; or

23 (C) has been approved by referendum.

24 **SEC. 5. EXEMPTIONS.**

25 The requirements of sections 3 and 4 do not apply—

1 (1) to a public provider’s provision of advanced
2 communications capabilities or services to itself or to
3 another public entity; or

4 (2) during an emergency declared by the Presi-
5 dent, the Governor of the State in which the public
6 provider is located, or any other elected local official
7 authorized by law to declare a state or emergency in
8 the jurisdiction in which the public provider is lo-
9 cated.

10 **SEC. 6. DEFINITIONS.**

11 In this Act:

12 (1) **ADVANCED COMMUNICATIONS CAPABILITY**
13 **OR SERVICES.**—The term “advanced communica-
14 tions capability or services” means a capability that
15 enables, or services that enable, users to originate or
16 receive high-quality voice, data, graphics, video or
17 other communications using any broadband tech-
18 nology.

19 (2) **PUBLIC PROVIDER.**—The term “public pro-
20 vider” means a State or political subdivision thereof,
21 any agency, authority, or instrumentality of a State
22 or political subdivision thereof, or any entity that is
23 owned, controlled, or otherwise affiliated with a
24 State, political subdivision thereof, or its agency, au-
25 thority, or instrumentality.

1 (3) STATE.—The term “State” has the mean-
2 ing provided in section 3(a)(40) of the Communica-
3 tions Act of 1934 (47 U.S.C. 153(a)(40)).

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